

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>4/22/14</u>

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:
EDUARDO OLVERA; DELFINO OLVERA; PRISCO :
SORIANO; FERNANDO PERALTA; and MODESTO :
PERALTA, *individually and on behalf of others similarly* :
situated, :

14 Civ. 1372(PAE)

Plaintiffs,

ORDER

-v-

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:
BAREBURGER GROUP LLC; BAREBURGER INC.; :
EAST 87 BURGERS LLC, *d/b/a* 1681 FIRST AVENUE :
BAREBURGER; BAREBURGER EAST SIDE LLC, :
d/b/a BAREBURGER; BB ONE LLC, *d/b/a* THIRD :
AVENUE BAREBURGER; EURIPIDES PELEKANOS; :
GEORGIOS RODAS; JOSEPH BUSUTIL; PANTELIS :
TZANIDAKIS; PETROS TZANIDAKIS; GEORGIOS :
TZANIDAKIS; JOHN KAPSALIS; NICK :
MAROLACHAKIS; NIKOLAOS GALANIS; VLASY :
VOINOVICH; and DIMITRIOS KOSMIDIS, :

Defendants.

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PAUL A. ENGELMAYER, District Judge:

On April 21, 2014, defendants Bareburger Group, LLC, Bareburger, Inc., Euripides Pelekanos, and Georgios Rodas, filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

Accordingly, it is hereby ORDERED that plaintiff shall file any amended complaint by May 13, 2014. No further opportunities to amend will be granted. If plaintiff does amend, by May 27, 2014, defendant shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit

a letter to the Court, copying plaintiff, stating that they rely on the previously filed motion to dismiss.¹

It is further ORDERED that if no amended complaint is filed, plaintiff shall serve any opposition to the motion to dismiss by May 13, 2014. Defendants' reply, if any, shall be served by May 20, 2014. At the time any reply is served, the moving party shall supply the Court with two (2) courtesy copies of all motion papers by mailing or delivering them to the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, New York 10007.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: April 22, 2014
New York, New York

¹ If defendants file a new motion to dismiss or rely on their previous motion, plaintiff's opposition will be due 14 days thereafter.